

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE:

**Ramon Preston McGehee and Kristi Lynn
Blessitt,
Debtors.**

**Case # 16-01948-dd
Chapter 7**

TO: All Creditors and Parties in Interest

**NOTICE AND MOTION PURSUANT TO FEDERAL RULE OF BANKRUPTCY
PROCEDURE 9019 AS TO DEBTORS' EXEMPTIONS**

YOU ARE HEREBY NOTIFIED THAT Michelle L. Vieira, Chapter 7 Trustee (“Trustee”) for Ramon Preston McGehee and Kristi Lynn Blessitt (“Debtors”), hereby moves the Court for an order approving the settlement and compromise between the Trustee and the Debtors as it relates to the exemptions claimed by the Debtors and the Trustee’s Objection to Debtor Exemptions, filed at Docket 17, as supplemented at Docket 40.

TAKE FURTHER NOTICE that any response, return and/or objection to this Notice, should be filed with the Clerk of the Bankruptcy Court no later than twenty-one (21) days from the service hereof and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this Notice unless a response, return and/or objection is timely filed and served, in which case the Court will conduct a hearing on **October 18, 2016, at 9:00 a.m. at the United States Bankruptcy Courthouse, 145 King Street, Room 225, Charleston, SC 29201-2423**. No further notice of this hearing will be given.

NATURE OF DISPUTE: The Trustee objected to a number of the Debtors’ claimed exemptions. The most substantial was an exemption claimed in a “Traditional IRA” in the approximate amount of \$218,000. The Trustee objected on the grounds that the IRA was improperly established with funds that were not eligible for rollover. The Trustee also objected to the Debtors’ claimed exemption in funds remaining in a non-qualified deferred compensation account (the “MaxWorth Account”) in the approximate amount of \$18,850, on the grounds that the exemption statute listed by the Debtors did not apply to these funds and no other exemption statute was applicable. The Debtors have asserted that the amount of approximately \$4,523 which was distributed to the Debtor post-petition from the MaxWorth Account is subject to

exemption as a liquid asset, upon a proper amendment to Schedule C, which the Trustee disputes. The other objections asserted by the Trustee have been or will be cured by the Debtors' filing of amended schedules. Specifically, the Trustee agrees that the "Roth IRA", the "Second Vehicle", and the "Lawsuits"¹ (as related to non-bodily injury damages) are subject to exemption. Finally, during the investigations into the objection to exemptions, the Debtors have discovered the existence of a potential pre-petition claim against Edward Jones (the "EJ Claim") for advice that was given to the Debtors regarding the Traditional IRA rollover. The Trustee reserved her rights as to the EJ Claim. The Trustee also reserved her rights as to a potential claim involving the pre-petition transfer of a vehicle interest between the Debtors, which was also revealed during the course of investigations.

AMOUNT DISPUTED: The value of the items subject to dispute are as follows: Traditional IRA, approximately \$218,000; MaxWorth Account, approximately \$18,850, with approximately \$4,523 of this amount having been distributed to the Debtor post-petition; the EJ Claim, undetermined; and pre-petition transfer of vehicle interest between the Debtors, \$2,100.

PROPOSED SETTLEMENT OR COMPROMISE: The parties agree that the Traditional IRA and the MaxWorth Account are not exempt, including the amount which was distributed to the Debtor post-petition from the MaxWorth Account, and that these assets will be administered in the chapter 7. The Trustee agrees to abandon the Roth IRA, the Second Vehicle, and the Lawsuits, which the Trustee agrees are properly subject to exemption. The Trustee will abandon the EJ Claim and any claim resulting from the Debtors' pre-petition transfer of a vehicle interest, after having considered the cost/benefit of the same. The Debtor has a diamond ring which has a scheduled value that is greater than the applicable exemptions. As part of this settlement, the Debtor agrees to provide the ring to the Trustee for appraisal, but any value the ring might have for the benefit of the estate will be treated separately from this settlement agreement.

BENEFIT TO THE ESTATE: This settlement will enable the Trustee to liquidate the Traditional IRA and the MaxWorth Account quickly and efficiently, without further dispute. The creditors will benefit from the swift distribution through the chapter 7. The Trustee has determined that the EJ Claim would be expensive and lengthy litigation for the estate, with no guaranteed outcome, and therefore has determined that it is prudent to abandon this claim. Likewise, the cost of pursuing the pre-petition transfer of a vehicle interest between the Debtors pre-petition outweighs the potential recovery of only \$2,100. This settlement allows the Trustee to avoid further cost of litigation, while guaranteeing the estate the benefit of the most substantial assets which are the Traditional IRA and the MaxWorth Account.

¹ These capitalized terms are defined in the Objection at Docket 17.

MOVING PARTIES:

For the Trustee: Christine E. Brimm, 1715 Pickens St., Columbia, SC 20201,
cbrimm@bartonlawsc.com, 803-256-6582.

For the Debtors: R. Michael Drose, 3955 Faber Place Drive, Charleston SC 29405,
michaeldrose@droselaw.com, 843-767-8888.

RESPECTFULLY SUBMITTED on this the 8th day of September, 2016 at Columbia, South Carolina.

MOVING PARTY:

/s/Christine E. Brimm
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Christine E. Brimm, #6313
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WE CONSENT:

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

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Blessitt,
Debtors.

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Chapter 7

CERTIFICATE OF SERVICE BY MAIL

I, Megan Jankowski, hereby certify that I, on behalf of Christine E. Brimm, District Court I.D. #6313, Counsel for Michelle L. Vieira, Chapter 7 Trustee, served a copy of the **NOTICE AND MOTION PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 9019 AS TO DEBTORS' EXEMPTIONS, filed September 8, 2016**, on the Office of the United States Trustee via electronic filing and electronic transmission through CM/ECF, pursuant to SC LBR 9036-1, and on the parties in interest as shown on the attached listing, via U.S. Mail, on September 8, 2016.

BARTON LAW FIRM, P.A.

BY: /s/Megan Jankowski
P. O. Box 12046
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September 8, 2016

Case 16-01948-dd

District of South Carolina

Charleston

Wed Sep 7 14:06:36 EDT 2016

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Greenville SC 29602-2167

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PO DRAWER 1228
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Laughlin & Bowen PC
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Resurgent Capital Services
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Greenville, SC 29602-9008

Paragard Direct
12601 Collections Center Dr
Chicago IL 60693-0126

Professional Recovery Consultants
2700 Meridian Pkwy Ste 200
Durham NC 27713-2450

RADISPHERE
3700 PARK EAST STE 300
BEACHWOOD OH 44122-4399

Ricoh USA Inc
PO Box 532530
Atlanta GA 30353-2530

SC Department of Revenue
PO Box 12265
Columbia SC 29211-2265

SC INTERNISTS BILLING
5665 NEW NORTHSIDE DR STE 320
ATLANTA GA 30328-5834

SHORELINE MEDICAL TRANSPORT
452 BROWNS COVE RD
Ridgeland SC 29936-8164

SOUTHCOAST MEDICAL GROUP
25 HOSPITAL CENTER BLVD #104
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Sears Credit Cards
PO Box 78051
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Selective Insurance Co of South Carolina
11711 North Meridian Street Suite 800
Carmel IN 46032-6965

Selective Service Center
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PO Box 13325
Richmond VA 23225-0325

South Carolina Dept Of Employment & Work
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Steven B. Licata Esquire
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PO Box 9650061
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Michelle L. Vieira
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The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

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End of Label Matrix
Mailable recipients 77
Bypassed recipients 3
Total 80